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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Ryan Cox, individually and on behalf of all other  
similarly situated;

Plaintiffs,

v.

CoinMarketCap OpCo, LLC, BAM Trading  
Services Inc. d/b/a Binance.US, and Does I-X;

Defendants.

Case No. 3:21-cv-08197-SMB

**FIRST AMENDED CLASS  
ACTION COMPLAINT**

(Jury Trial Demanded)

**INTRODUCTION**

1. In recent years, various forms of digital assets have come into circulation. Though these assets take many forms, in the popular lexicon they are typically referred to as cryptocurrencies. For the sake of simplicity all digital assets, whether they meet the strict definition of cryptocurrencies, are referred to as such in this Complaint.
2. One such cryptocurrency is HEX.
3. Plaintiff alleges that Defendants have worked by various unlawful means to

1 artificially suppress the value of HEX and artificially inflate the value of other  
2 cryptocurrencies.

3 4. This is a class action brought pursuant Rule 23 of the Federal Rules of Civil  
4 Procedure to obtain redress for such conduct.

5 5. As set forth at greater length below:

6 a. Defendant CoinMarketCap OpCo, LLC (“CoinMarketCap.com”) is a coin  
7 ranking site.

8 b. CoinMarketCap.com is ultimately owned by Digital Anchor Holdings  
9 Limited, formerly known as Binance Capital Mgmt. Co., Ltd. (“Binance”), a  
10 cryptocurrency exchange.

11 c. Defendant BAM Trading Services Inc. (“BAM” or “Binance.US”) is  
12 Binance’s US affiliate.

13 d. Binance and Binance.US are also CoinMarketCap.com’s affiliated  
14 exchanges.

15 6. Nic Carter, a partner at venture capital firm Castle Island Ventures, and co-  
16 founder of CoinMetrics.io wrote an article detailing the relationship between  
17 exchanges, coin ranking sites, and retail investors.<sup>1</sup> He explains:

18  
19 *[Rankings sites] occupy a fêted position in the industry. Ostensibly, they perform*  
20 *a useful service to investors and receive little in return aside from ad revenue.*  
21 *But the under-reported reality is more sinister. Rankings sites are squarely at*  
22 *the center of the extractive game that siphons money from retail investors and*  
23 *deposits it into the pockets of altcoin creators and exchange operators.*

24  
25 . . .

26  
27 <sup>1</sup> Nic Carter, *The Dark Underbelly of Cryptocurrency Markets*, NIC CARTER  
28 (September 3, 2018) <https://medium.com/s/the-crypto-collection/a-glimpse-into-the-dark-underbelly-of-cryptocurrency-markets-d1690b761eaf> (last visited Sept. 13, 2021).

1        *The problem with the [altcoin casino | altcoin issuer | rankings site] troika is*  
2        *how neatly intertwined all their incentives are, and how poorly-educated users*  
3        *are about each. In many cases, “exchanges” is a misnomer. These things are*  
4        *more akin to the bucket shops of the 20s, the boiler rooms of the 80s, or the*  
5        *unregulated poker sites of the early 2000s, which ran fractional reserves or*  
6        *granted insiders special access to the hole cards of unwitting players.*

7  
8        *Quite simply, most of the crypto-to-crypto exchanges have nothing in common*  
9        *with exchanges like the NYSE or the NASDAQ. While some investors are aware*  
10       *of this, many mistakenly believe them to have integrity[.]*

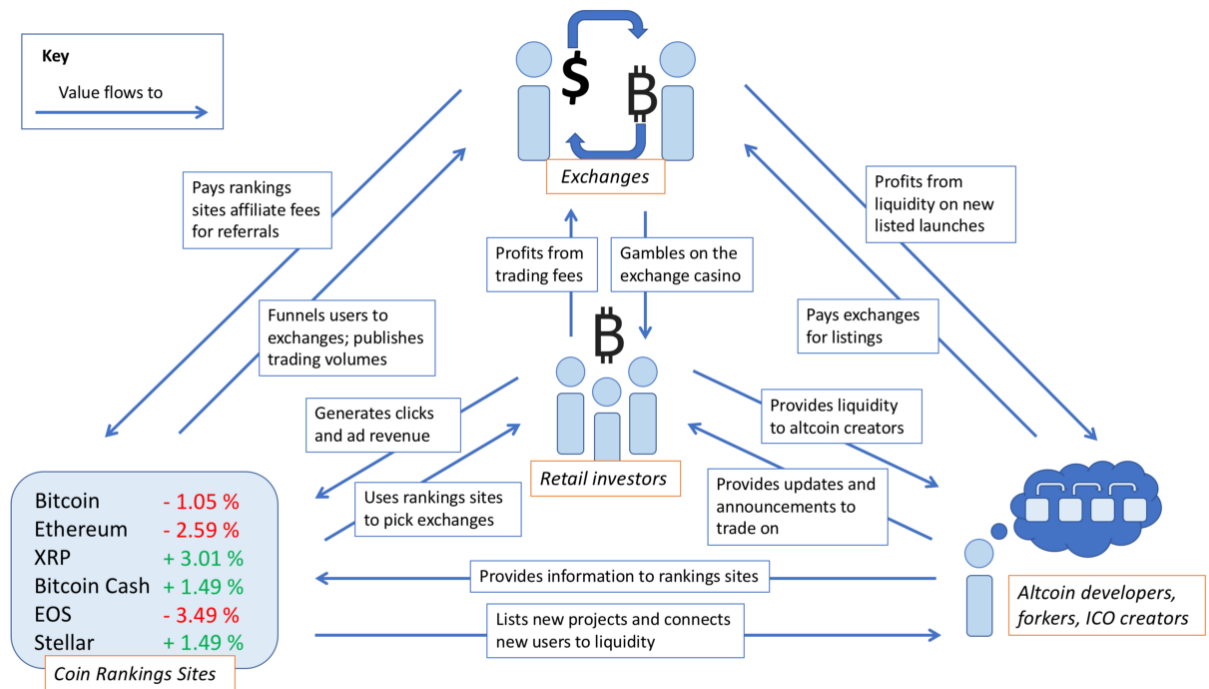
- 11       7. Mr. Carter explains that the “business model of the coin rankings sites” is to  
12       generate revenue by linking consumers with affiliated exchanges where they  
13       can buy and sell cryptocurrencies:

14       *Many if not most exchanges have affiliate schemes, and referral links*  
15       *(“reflinks”) can be a lucrative source of revenue if you are the intermediary*  
16       *between active traders and exchanges.*

17       . . .

18       *Investors go to [coin rankings] sites to find links to exchanges where they can*  
19       *trade their coins of choice, especially if they are smaller projects and do not*  
20       *have many points of liquidity. Since the rankings sites are the ports of call for*  
21       *investors, they have an almost captive audience and can easily monetize with an*  
22       *affiliate link.*

8. Mr. Carter provides the following graphic to illustrate these relationships:



### PARTIES, JURISDICTION, AND VENUE

9. Plaintiff Ryan Cox is, and was at all times relevant hereto, a resident of Yavapai County, Arizona.

10. Plaintiff acquired HEX prior to the Suppression Period (defined below).

11. Plaintiff sold some of his HEX during the Suppression Period.

12. But the acquisition and sale occurred while plaintiff was physically located in Arizona.

13. Defendant CoinMarketCap OpCo, LLC (“CoinMarketCap.com”) is a Delaware limited liability company. Upon information and belief its nominal headquarters location is in Delaware. It is widely used by Arizona investors.

14. According to CoinMarketCap.com:

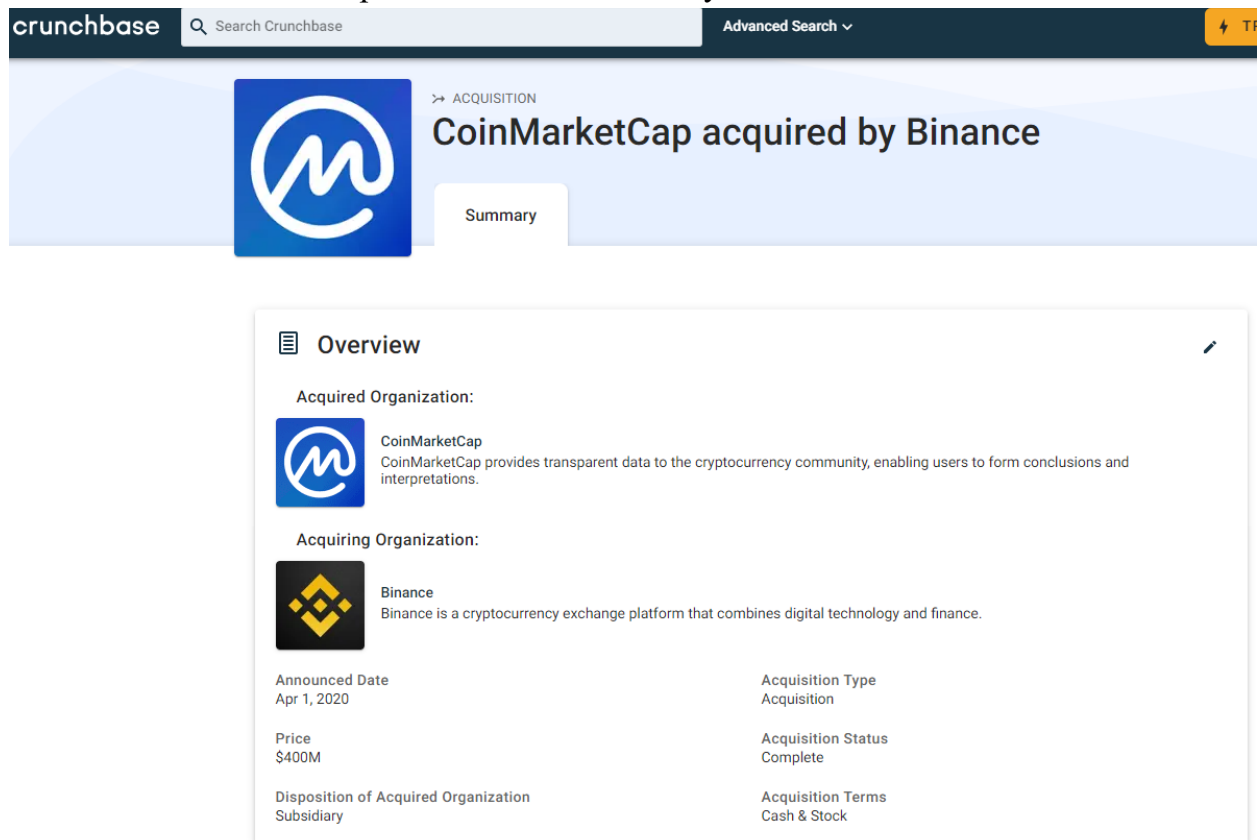
*CoinMarketCap is the world’s most-referenced price-tracking website for cryptoassets in the rapidly growing cryptocurrency space. Its mission is to make crypto discoverable and efficient globally by empowering retail users with unbiased, high quality and accurate information for drawing their own informed*

conclusions.<sup>2</sup>

15. CoinMarketCap.com is sponsored by Blockchain.com.

16. CoinMarketCap.com was acquired by Binance Capital Mgmt. Co., Ltd. (“Binance”), a limited liability company, in early of 2020—Binance subsequently changed its name to Digital Anchor Holdings Limited.

17. CoinMarketCap.com is now a subsidiary of Binance.



18. In lauding the acquisition, Binance CEO Changpeng Zhao stated: “CoinMarketCap has more users than any other product in the crypto space . . . Even though their money generation mechanism is not as strong as Binance, they do have the users – it’s a very valuable platform.”<sup>3</sup>

<sup>2</sup> *About CoinMarketCap*, COINMARKETCAP, <https://coinmarketcap.com/about/> (last visited Aug. 31, 2021).

<sup>3</sup> William Foxley, ‘*They Have the Users*’: *Binance CEO Explains Why He Bought CoinMarketCap*, COINDESK (April 2, 2020), <https://www.coindesk.com/binances-coinmarketcap-acquisition-is-a-bet-that-crypto-really-is-for-the-masses> (last visited Aug.

19. Coindesk reported that Andy Cheung, former chief operating officer at OKEx and founder of crypto derivative platform ACDX stated that the acquisition was “‘not very good for the industry’ given the conflict of interest between the parties’ missions” and that “[Cheung pointed]to Binance’s exchange token, BNB [AKA Binance Coin], as an example.”<sup>4</sup>

20. For its part, CoinMarketCap.com claims:

*In April 2020, CoinMarketCap was acquired by Binance Capital Mgmt. Binance is the global blockchain company behind the world’s largest digital asset exchange by trading volume and users, which shares the common vision of making crypto accessible and systemically important to people all around the world. Through the acquisition, CoinMarketCap plans to tap into its parent company’s extensive resources to acquire more in-depth data into projects, reduce information asymmetry in the crypto industry and bring higher-quality data to its hundreds of millions of users.*<sup>5</sup>

21. Coindesk has called CoinMarketCap.com the “dominant data source and go-to platform for asset pricing” in the cryptocurrency space as well as the “first landing page for retail investors[.]” Despite its status as “the first port of call for small retail buyers” Coindesk has also noted that “institutional investors [have] spurned the website, particularly after [a report of misconduct on the part of CoinMarketCap.com was made to the SEC].” Nonetheless, Coindesk notes that “exchanges have always used CoinMarketCap[.]”<sup>6</sup>

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31, 2021).

<sup>4</sup> William Foxley, ‘They Have the Users’: Binance CEO Explains Why He Bought CoinMarketCap, COINDESK (Apr. 2, 2020), <https://www.coindesk.com/binances-coinmarketcap-acquisition-is-a-bet-that-crypto-really-is-for-the-masses> (last visited Aug. 31, 2021).

<sup>5</sup> *About CoinMarketCap*, COINMARKETCAP, <https://coinmarketcap.com/about/> (last visited Aug. 31, 2021).

<sup>6</sup> William Foxley, ‘They Have the Users’: Binance CEO Explains Why He Bought CoinMarketCap, COINDESK (Apr. 2, 2020), <https://www.coindesk.com/binances-coinmarketcap-acquisition-is-a-bet-that-crypto-really-is-for-the-masses> (last visited Aug.

22. In a 2019, interview with Forbes Magazine, Adel de Meyer, the CEO of DAPS Coin, noted that “[a] ranking authority with the size and reputation of CoinMarketCap has the capacity to essentially ‘hide’ a [Cryptocurrency] at will.”<sup>7</sup>

23. Adel de Meyer also noted that CoinMarketCap.com’s dominance provided the “option for collusion, corruption, and coercion[.]” She further noted that CoinMarketCap.com seemed to reduce some market caps arbitrarily, leaving “investors and traders confused” and “damaging the reputation” of cryptocurrencies so impacted. She concluded that CoinMarketCap.com’s flawed rankings, were “dangerous” and posed a risk to retail investors.<sup>8</sup>

24. In addition to “hiding” a cryptocurrency, CoinMarketCap.com has the ability to artificially inflate the value of a Cryptocurrency. For example, Mr. Carter notes that by listing an artificially high market cap for advertiser and cryptocurrency BitConnect, “CoinMarketCap directly enabled” it to “siphon[.] around \$100m from investors[.]”<sup>9</sup> The SEC also made note of CoinMarketCap’s popularity and its advertising relationship with BitConnect in its suit against BitConnect’s promoters.<sup>10</sup>

25. According to CoinMarketCap.com:

*Binance is the global blockchain company behind the world’s largest digital asset exchange by trading volume and users, serving a greater mission to*

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31, 2021).

<sup>7</sup> Luke Fitzpatrick, *CoinMarketCap Algorithm Changed: Is the Ranking Flawed?*, FORBES (Aug. 20, 2019), <https://www.forbes.com/sites/lukefitzpatrick/2019/08/20/coinmarketcap-algorithm-changed-is-the-ranking-flawed/?sh=409f4f064897> (last visited Sept. 13, 2021).

<sup>8</sup> *Id.*

<sup>9</sup> Nic Carter, *The Dark Underbelly of Cryptocurrency Markets*, NIC CARTER (September 3, 2018) <https://medium.com/s/the-crypto-collection/a-glimpse-into-the-dark-underbelly-of-cryptocurrency-markets-d1690b761eaf> (last visited Sept. 13, 2021).

<sup>10</sup> See e.g., Compl., ¶ 44, *Securities and Exchange Commission v. Trevon Brown, et al.*, No. 21 Civ. 4791 (S.D.N.Y.) (copy available at <https://www.sec.gov/litigation/complaints/2021/comp-pr2021-90.pdf>).



1 *accelerate cryptocurrency adoption with 25+ products, projects and initiatives.*  
2 *Binance.com is known for offering a wide range of cryptoasset trading options*  
3 *and fiat on-ramps for multiple currencies globally, as part of its mission to*  
4 *increase the freedom of money.*<sup>11</sup>

5 26. Binance launched in July 2017. By January 2018, it had become, and remains,  
6 the largest cryptocurrency exchange in the world, with a market capitalization  
7 of \$1.3 billion and the highest trading volume of any such exchange. Binance  
8 facilitates trades in cryptocurrency by providing a marketplace and facilities for  
9 bringing together buyers and sellers of cryptocurrency in exchange for Binance  
10 taking a fee for every transaction it facilitates.

11 27. Binance's CEO, Changpeng Zhao, founded Binance in China but shortly  
12 thereafter moved Binance's headquarters to Japan, in advance of the Chinese  
13 government's ban on cryptocurrency trading.

14 28. In March 2018, as a result of increasing regulatory scrutiny in Japan, Binance  
15 moved its nominal headquarters to Malta. However, Zhao has stated that:  
16 *Binance.com has always operated in a decentralized manner as we reach out to*  
17 *our users across more than 180 nations worldwide. As well as pushing the*  
18 *envelope in experimenting on how to become a true DAO (decentralized*  
19 *autonomous organization).*<sup>12</sup>

20 29. Malta for its part has announced that Binance is not under its jurisdiction. "Since  
21 then Binance has not said just where, exactly, it is now headquartered."<sup>13</sup>

22 30. Coindesk has reported on Zhao's 2020 response to one questioner who asked

23 <sup>11</sup> *About CoinMarketCap*, COINMARKETCAP, <https://coinmarketcap.com/about/> (last  
24 visited Aug. 31, 2021).

25 <sup>12</sup> *Binance CEO Dismisses Malta Controversy: "This is Old News"*, SUPERCRYPTONEWS  
(Feb. 24, 2020), <https://www.supercryptonews.com/binance-malta-controversy/> (last  
26 visited Aug. 31, 2021).

27 <sup>13</sup> Paddy Baker, *Binance Doesn't Have a Headquarters Because Bitcoin Doesn't*, Says  
CEO, COINDESK (May 8, 2020) (updated Aug. 24, 2021),  
28 <https://www.coindesk.com/binance-doesnt-have-a-headquarters-because-bitcoin-doesnt-says-ceo> (last visited Aug. 31, 2021).



1 where Binance was headquartered:

2 *Then it hit. Shin asked the one question Zhao really didn't want to have to*  
 3 *answer, but many want to know: Where is Binance's headquarters? . . .*

4  
 5 *Little wonder that when asked Zhao reddened; he stammered. He looked off-*  
 6 *camera, possibly to an aide. 'Well, I think what this is is the beauty of the*  
 7 *blockchain, right, so you don't have to ... like where's the Bitcoin office, because*  
 8 *Bitcoin doesn't have an office,' he said.*

9  
 10 *The line trailed off, then inspiration hit. 'What kind of horse is a car?' Zhao*  
 11 *asked. Binance has loads of offices, he continued, with staff in 50 countries. It*  
 12 *was a new type of organization that doesn't need registered bank accounts and*  
 13 *postal addresses.*<sup>14</sup>

14 31. Nic Carter, a partner at venture capital firm Castle Island Ventures, and co-  
 15 founder of CoinMetrics.io has called Binance the “archetype” of the lightly  
 16 regulated cryptocurrency “casino” that “hop[s] around from jurisdiction to  
 17 jurisdiction to avoid the watchful eyes of regulators” and claiming that it has “a  
 18 devil-may-care attitude toward compliance, KYC/AML, wash trading, and  
 19 reporting.”<sup>15</sup>

20 32. Although it is thus unclear where Binance is physically headquartered, since its  
 21 founding Binance has regularly and intentionally engaged in numerous online  
 22 cryptocurrency transactions inside the United States, with United States  
 23 residents. In addition, Binance has promoted, inside the United States, the sale

24  
 25 <sup>14</sup> Paddy Baker, *Binance Doesn't Have a Headquarters Because Bitcoin Doesn't, Says*  
 26 *CEO*, COINDESK (May 8, 2020) (updated Aug. 24, 2021),  
[https://www.coindesk.com/binance-doesnt-have-a-headquarters-because-bitcoin-doesnt-](https://www.coindesk.com/binance-doesnt-have-a-headquarters-because-bitcoin-doesnt-says-ceo)  
[says-ceo](https://www.coindesk.com/binance-doesnt-have-a-headquarters-because-bitcoin-doesnt-says-ceo) (last visited Aug. 31, 2021).

27 <sup>15</sup> Nic Carter, *The Dark Underbelly of Cryptocurrency Markets*, NIC CARTER (Sept. 3,  
 28 2018) [https://medium.com/s/the-crypto-collection/a-glimpse-into-the-dark-underbelly-of-](https://medium.com/s/the-crypto-collection/a-glimpse-into-the-dark-underbelly-of-cryptocurrency-markets-d1690b761eaf)  
[cryptocurrency-markets-d1690b761eaf](https://medium.com/s/the-crypto-collection/a-glimpse-into-the-dark-underbelly-of-cryptocurrency-markets-d1690b761eaf) (last visited September 13, 2021).

of digital assets on its exchange.

33. In 2019, Binance was banned in the United States on regulatory grounds and stopped accepting US users that year.

34. In response, Binance launched Binarace.US in partnership with US company BAM Trading Services Inc. (“BAM” or “Binance.US”).<sup>16</sup> According to Changpeng Zhao, the purpose of Binance.US was to “bring the security, speed, and liquidity of Binance.com to North America” and ensure that Binance served the US market was in “full regulatory compliance.”<sup>17</sup>

35. It is unclear who Binance.US’s current CEO is. Discovery will be sought on this point as appropriate. If discovery reveals that Binance.US’s current CEO is liable, in whole or in part, for the acts or omissions complained of herein, Plaintiff and the Class will seek leave to add him or her as a Defendant.

36. Binance.US is supposedly operated by BAM but uses Binance’s wallet, matching engine, and other technologies.<sup>18</sup>

37. Upon information and belief Binance and or Zhao own a significant portion of Binance.US.

38. Binance.US offers a very similar interface and feature set to its worldwide counterpart.

39. Binance.US has been banned in seven US states.

40. Arizona is not one of the states in which Binance.US has been banned.

41. Binance and/or Binance.US thus continues to operate in Arizona.

42. Binance.US sought and obtained licensure as a money transmitter from the

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<sup>16</sup> Nikhilesh De, *Binance Says It’s Launching a US Exchange With FinCEN Registered Partner*, COINDESK (June 13, 2019) (updated Aug. 24, 2021), <https://www.coindesk.com/binance-says-its-launching-a-us-exchange-with-fincen-registered-partner> (last visited Aug. 31, 2021).

<sup>17</sup> *Id.*

<sup>18</sup> Nikhilesh De, *Binance Says It’s Launching a US Exchange With FinCEN Registered Partner*, COINDESK (June 13, 2019) (updated Aug. 24, 2021), <https://www.coindesk.com/binance-says-its-launching-a-us-exchange-with-fincen-registered-partner> (last visited Aug. 31, 2021).

1 Arizona Department of Financial Institutions.<sup>19</sup>

2 43. In May 2021, Bloomberg News reported that Binance was under investigation  
3 by the United States Department of Justice and Internal Revenue Service for  
4 money-laundering and tax evasion.<sup>20</sup>

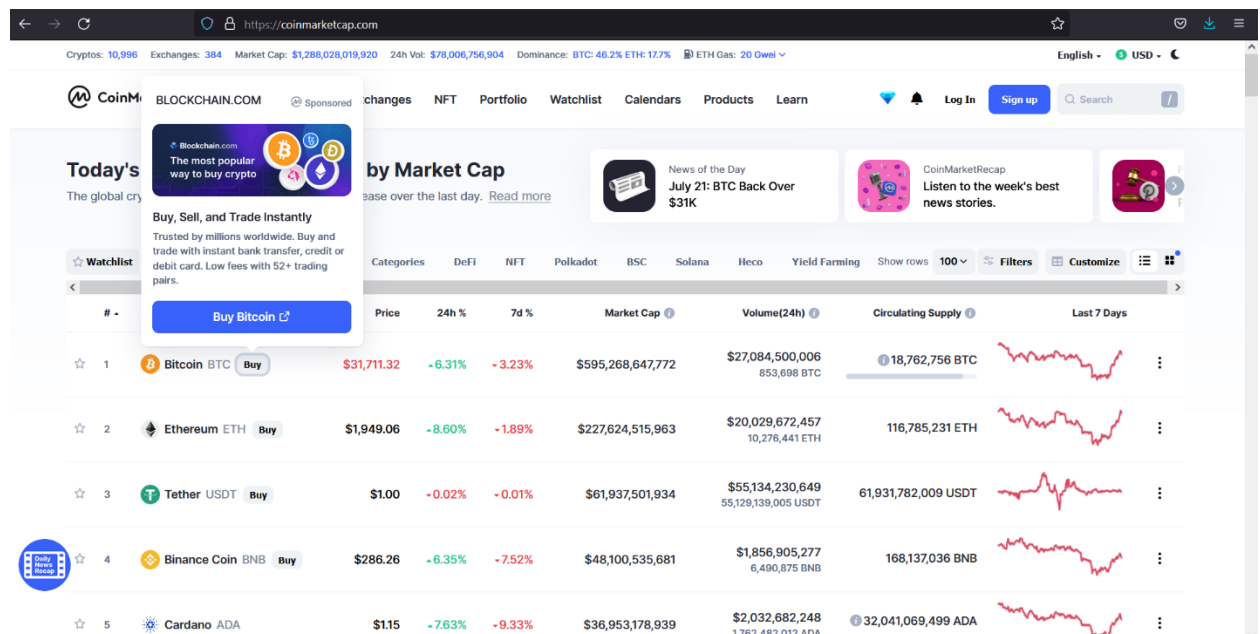
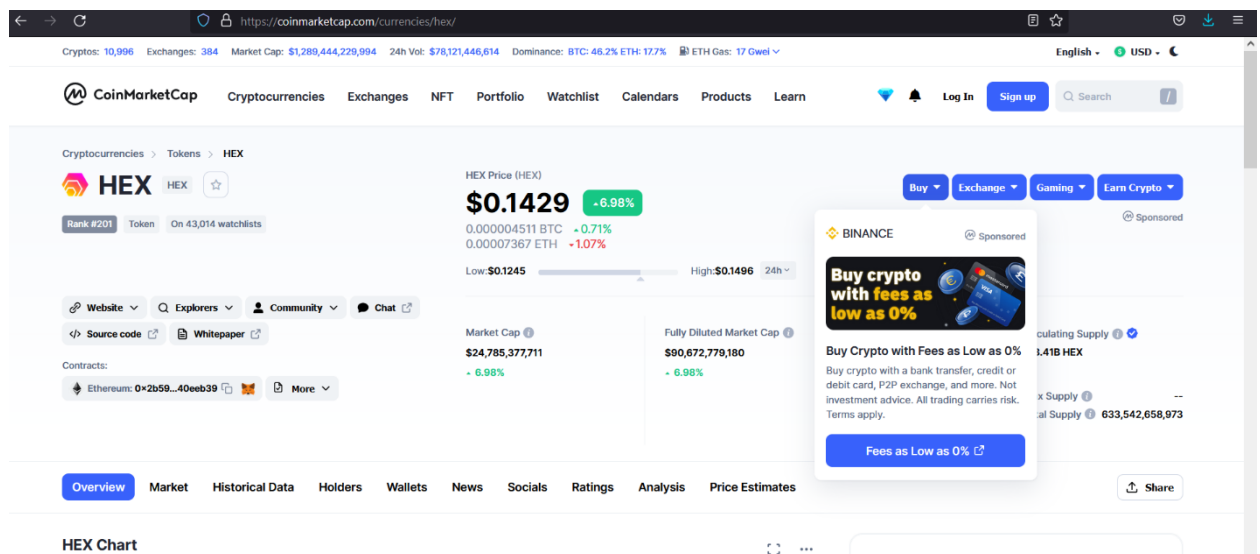
5 44. Collectively CoinMarketCap.com and Binance.US are referred to as the  
6 “Defendants”.

7 45. Next to each cryptocurrency listed on CoinMarketCap.com’s is a “buy” button.  
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25 <sup>19</sup> Licenses, BINANCE, [https://support.binance.us/hc/en-us/articles/360050532193-](https://support.binance.us/hc/en-us/articles/360050532193-Licenses)  
26 [Licenses](https://support.binance.us/hc/en-us/articles/360050532193-Licenses) (last visited Aug. 31 2021).

27 <sup>20</sup> Tom Schoenberg, *Binance Faces Probe by U.S. Money-Laundering and Tax Sleuths*,  
28 BLOOMBERG (May 13, 2021), [https://www.bloomberg.com/news/articles/2021-05-](https://www.bloomberg.com/news/articles/2021-05-13/binance-probed-by-u-s-as-money-laundering-tax-sleuths-bore-in)  
[13/binance-probed-by-u-s-as-money-laundering-tax-sleuths-bore-in](https://www.bloomberg.com/news/articles/2021-05-13/binance-probed-by-u-s-as-money-laundering-tax-sleuths-bore-in) (last visited Aug. 31,  
2021).



46. Users who click on the “buy” button are directed to either Blockchain.com or Binance’s websites.
47. However, despite appearances to the contrary, HEX cannot be purchased via either Blockchain.com or Binance.
48. The link on CoinMarketCap.com that takes users to Binance.com does not inform users that they are being directed to a Binance subsidiary but instead invites users to purchase cryptocurrency through “Binance[.]” Similarly, the landing page at which users arrive after clicking the link states that the site belongs to “Binance” in the upper left-hand corner and directs users to Binance’s

1 website.

2 49. In contrast, the words Binance.US are prominently displayed in the upper left-  
3 hand corner of Binance.US's website.<sup>21</sup>

4 50. The "terms" section of the website to which CoinMarketCap.com users are  
5 directed makes clear that "Binance refers to an ecosystem comprising Binance  
6 websites (whose domain names include but are not limited to  
7 www.binance.com), mobile applications, clients, applets and other applications  
8 that are developed to offer Binance Services, and includes independently-  
9 operated platforms, websites and clients within the ecosystem (e.g. Binance's  
10 Open Platform, Binance Launchpad, Binance Labs, Binance Charity, Binance  
11 DEX, Binance X, JEX, Trust Wallet, and fiat gateways)."<sup>22</sup>

12 51. The "about Binance" paragraph of the "terms" portion of the website states that  
13 "Binance mainly serves as a global online platform for Digital Assets trading[.]"

14 52. The "terms" section further notes that "Binance Operators" are bound by the  
15 terms expressed therein. II(1)(a).

16 53. Binance Operators are defined as referring "to all parties that run Binance,  
17 including but not limited to legal persons, unincorporated organizations and  
18 teams that provide Binance Services and are responsible for such services."

19 54. Binance Services are defined as referring "to various services provided to you  
20 by Binance that are based on Internet and/or blockchain technologies and offered  
21 via Binance websites, mobile applications, clients and other forms (including  
22 new ones enabled by future technological development). Binance Services  
23 include but are not limited to such Binance ecosystem components as Digital  
24 Asset Trading Platforms, the financing sector, Binance Labs, Binance Academy,  
25 Binance Charity, Binance Info, Binance Launchpad, Binance Research, Binance

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26 <sup>21</sup> See e.g., BINANCE.US, <https://www.binance.us/en/buy-sell-crypto> (last visited Aug. 31,  
27 2021).

28 <sup>22</sup> *Binance Terms of Use*, BINANCE (Aug. 20, 2021), <https://www.binance.com/en/terms>  
(last visited Aug. 31, 2021).

Chain, Binance X, Binance Fiat Gateway, existing services offered by Trust Wallet and novel services to be provided by Binance.”

55. For example, on Binance’s “about” page,<sup>23</sup> titled “About Binance[,]” users are treated to an infographic of Binance’s ecosystem. The only exchange listed as part of that ecosystem is “Binance Exchange . . . the largest crypto exchange by trade volume and one of the fastest in the world.” No mention is made of Binance.US being a separate part of the ecosystem.

56. The about page also informs users about a cryptocurrency developed by Binance as well as Binance’s vision to “increase the freedom of money globally.” It further states that “by spreading this freedom, we can significantly improve lives around the world[.]”

57. Conversely, the website that CoinMarketCap.com users are directed to lists Binance as part of the Ecosystem.

58. The website also lists “Binance Info” (i.e. CoinMarketCap.com) as part of its ecosystem and claims that it serves as an “open and objective information platform.” This despite the fact that prior to acquiring CoinMarketCap.com, Zhao had criticized the quality of its data<sup>24</sup> and that a 2019 report to the SEC had found that CoinMarketCap’s data was based in large part on artificial trade volume.<sup>25</sup>

59. Clicking on the link for “Binance Info” takes users to CoinMarketCap.com’s website.<sup>26</sup>

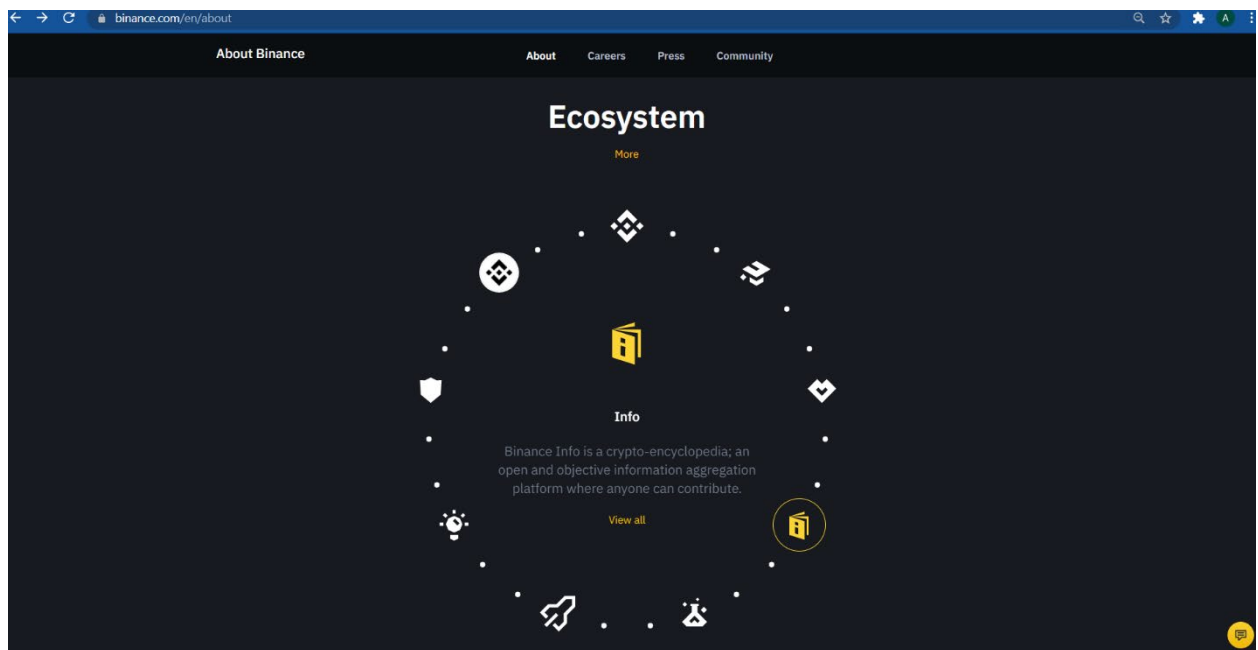
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<sup>23</sup> *About Binance*, BINANCE, <https://www.binance.com/en/about> (last visited Aug. 31, 2021).

<sup>24</sup> William Foxley, *‘They Have the Users’: Binance CEO Explains Why He Bought CoinMarketCap*, COINDESK (April 2, 2020), <https://www.coindesk.com/binances-coinmarketcap-acquisition-is-a-bet-that-crypto-really-is-for-the-masses> (last visited Aug. 31, 2021).

<sup>25</sup> *Id.*

<sup>26</sup> *About Binance*, BINANCE, <https://www.binance.com/en/about> (last visited Aug. 31, 2021).



60. Thus, it is simply not clear where Binance ends and Binance.US begins or even whether there is any meaningful distinction between the two at all.

61. Although Binance bills CoinMarketCap.com as an open source platform to which any user can contribute, users cannot change HEX's ranking. Rather, the power to change that ranking is under the control of Defendants.

62. Upon information and belief, the Binance and Binance.US exchanges make money by charging a transaction fee to those who execute transactions of the cryptocurrencies traded on those exchanges.

63. HEX is not traded on Binance or Binance.US.

64. Does I-X are other natural or corporate persons which may be liable for the acts or omissions complained of herein, including by their virtue of their status as control persons. Plaintiff will seek leave to add their true names after discovery reveals their identities.

65. This Court has jurisdiction pursuant to Article III of the US Constitution, 7 U.S. Code § 25, Section 22 of the Securities Act, 28 U.S.C. § 1331-1332, 15 U.S.C. § 77v, Section 27 of the Exchange Act, 15 U.S.C. § 78aa(a), the Clayton Act, 28 U.S. Code § 1337, CAFA, common law doctrine, and other applicable law.



66. This Court additionally has jurisdiction over the claims arising, in whole or in part, under Arizona law pursuant to the authorities set forth above as well as pursuant to this Court's supplemental jurisdiction under 28 U.S.C. § 1367(a). This Court also has jurisdiction over the claims arising under Arizona law pursuant to other applicable law.

67. Venue is proper pursuant to, 15 U.S.C. § 77v(a), 15 U.S.C. § 78aa, common law doctrine, and other applicable law.

#### **COINMARKETCAP.COM'S REPRESENTATIONS TO THE PUBLIC**

68. Plaintiff incorporates by reference all preceding and subsequent allegations.

69. CoinMarketCap.com's website makes the following representations:

*CoinMarketCap strictly follows and enforces its independent listing criteria guidelines, circulating supply calculation methods and liquidity score for how it ranks cryptoassets.*<sup>27</sup>

*Cryptoassets that wish to be listed on CoinMarketCap should follow the guidelines in our listing policy and will be fairly and independently evaluated on their merits.*

*CoinMarketCap's official ranking criteria is designed to eliminate any possibility of preferential treatment . . .*<sup>28</sup>

*CoinMarketCap will continue to present the most accurate data on cryptocurrencies to the wider public independently.*<sup>29</sup>

*Our mission at CoinMarketCap has always been to provide all our users with the*

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<sup>27</sup> About CoinMarketCap, COINMARKETCAP, <https://coinmarketcap.com/about/> (last visited Aug. 31, 2021).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

1 *most accurate and relevant information to select exchanges and tokens to invest*  
 2 *and trade in.*<sup>30</sup>

3 70. Despite CoinMarketCap.com's promises of objectivity and fairness,  
 4 CoinMarketCap.com has a history of manipulating its rankings to benefit  
 5 Binance.

6 71. For example, CoinMarketCap.com, in addition to ranking cryptocurrencies,  
 7 ranks cryptocurrency exchanges. A May 15, 2020 article in CoinTelegraph  
 8 reported:

9 *Crypto markets data aggregator CoinMarketCap yesterday changed its*  
 10 *methodology to rank exchanges on their web traffic by default — a metric that puts*  
 11 *CoinMarketCap's new owners Binance in the top spot.*

12  
 13 *But this stands in stark contrast to the words of CoinMarketCap's Chief Strategy*  
 14 *Officer and acting CEO Carylyne Chan, who said in a podcast interview late last*  
 15 *year that web traffic was "not a good indicator."*

16  
 17 *Introduced just six weeks after Binance bought CoinMarketCap for hundreds of*  
 18 *millions of dollars, the new ranking methodology prioritizes web traffic over CMC's*  
 19 *painstakingly developed "liquidity metric," which was only introduced in*  
 20 *November and was due to become the default ranking.*

21  
 22 *When ranked by average liquidity, Binance lands in fourth place, following Bitfinex,*  
 23 *Coinbase Pro, and Huobi Global respectively.*<sup>31</sup>

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24  
 25 <sup>30</sup> *Web Traffic Factor (Exchange)*, COINMARKETCAP,  
 26 <https://support.coinmarketcap.com/hc/en-us/articles/360043837171-Web-Traffic-Factor-Exchange>- (last visited Aug. 31, 2021).

27 <sup>31</sup> Jake Frankenfield, *Binance Coin (BNB)*, INVESTOPEDIA (Aug. 17, 2021),  
 28 <https://cointelegraph.com/news/coinmarketcap-initially-rejected-the-metric-that-now-puts-binance-at-no1> (last visited Sept. 13, 2021).

72. A May 29, 2020 article in CoinTelegraph further reported:

***New CMC metrics accused of favoring Binance***

*On May 14, CoinMarketCap launched its new “web traffic factor.” The criterion seeks to analyze the user activity on exchanges, including the number of page views, unique visitors, the time spent on site, search engine bounce rate, and search engine rankings.*

*CMC’s new parent company, top-ranking crypto exchange Binance, received criticism for the web traffic metric’s introduction because Binance claimed the top spot as a result. A similar metric was previously considered and rejected by CoinMarketCap prior to its recent change in ownership.<sup>32</sup>*

73. CoinMarketCap.com’s “glossary” defines “Rank” as “The relative position of a cryptocurrency by market capitalization.”<sup>33</sup> It acknowledges that this is the industry norm and that “most individuals track cryptocurrency ranks according to market cap[.]”<sup>34</sup>

74. According to CoinMarketCap.com: “Market capitalization, or market cap, is calculated by multiplying the price of a cryptocurrency with its circulating supply at any given time.”<sup>35</sup>

75. As of September 13, 2021 between noon and 1PM, CoinMarketCap.com stated that HEX’s price was \$.3492.

76. Similarly, as of that date and time, CoinMarketCap.com stated: “The CoinMarketCap team **has verified** [HEX’s] circulating supply to be”

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<sup>32</sup> Samuel Haig, *CoinMarketCap Unveils Further Changes to Ranking System*, COINTELEGRAPH (May 29, 2020) <https://cointelegraph.com/news/coinmarketcap-unveils-further-changes-to-ranking-system> (last visited Sept. 13, 2021).

<sup>33</sup> *What is Rank?*, COINMARKETCAP, <https://coinmarketcap.com/alexandria/glossary/rank> (last visited Sept. 13, 2021).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

173,411,074,413 HEX.

**Circulating Supply** *i* *✓*

**✓ Verified Data**

The CoinMarketCap team has verified the project's circulating supply to be as follows:

<b>Circulating Supply</b>	<b>173,411,074,413 HEX</b>
---------------------------	----------------------------

However, according to the project, its self-reported CS and self-reported MC are as follows:

<b>Self Reported Supply</b>	<b>571,593,691,584 HEX</b>
<b>Self Reported Market Cap</b>	<b>\$206,638,271,446</b>

77. Indeed, CoinMarketCap.com represented as of that date and time that “The CMC team **has verified** the [HEX] Market Cap to be \$62,295,479,825.” This sum is the product of multiplying the price reported by CoinMarketCap.com with the circulating supply verified by CoinMarketCap.com (with minor variation accounted for because the figures were accessed at slightly different times).

https://coinmarketcap.com/currencies/hex/

Cryptos: 11,861 Exchanges: 409 Market Cap: \$2,033,125,248,413 24h Vol: \$144,522,034,145 Dominance: BTC: 41.3% ETH: 18.6% ETH Gas: 42 Gwei

English • USD • *☾*

**CoinMarketCap** Cryptocurrencies Exchanges NFT Portfolio Watchlist Calendars Products Learn *Log In* *Sign up* *Search*

Cryptocurrencies > Tokens > HEX

**HEX** *Rank #201* *Token* *On 59,312 watchlists*

**HEX Price (HEX)**

**\$0.3592** *+13.60%*

0.000008046 BTC *+11.31%*  
0.0001115 ETH *+9.16%*

Low: \$0.3586 High: \$0.4203 24h

*Website* *Source code* *Whitepaper* *Community* *Chat*

Contracts: *Ethereum: 0x2b59...40eeb39* *More*

**Market Cap** *1*

The total market value of a cryptocurrency's circulating supply. It is analogous to the free-float capitalization in the stock market.

Market Cap = Current Price x Circulating Supply.

*Read More*

The CMC team has verified the project's Market Cap to be \$62,295,479,827. However, according to the project, its self-reported CS is 571,593,691,584 HEX with a self-reported market cap of \$206,638,271,446.

**Fully Diluted Market Cap** *1*

\$229,033,598,280 *+13.60%*

**Volume 24h** *1*

\$72,333,263 *+31.03%*

Volume / Market Cap *1*

0.001134

**Circulating Supply** *1* *✓*

173.41B HEX

**Max Supply** *1*

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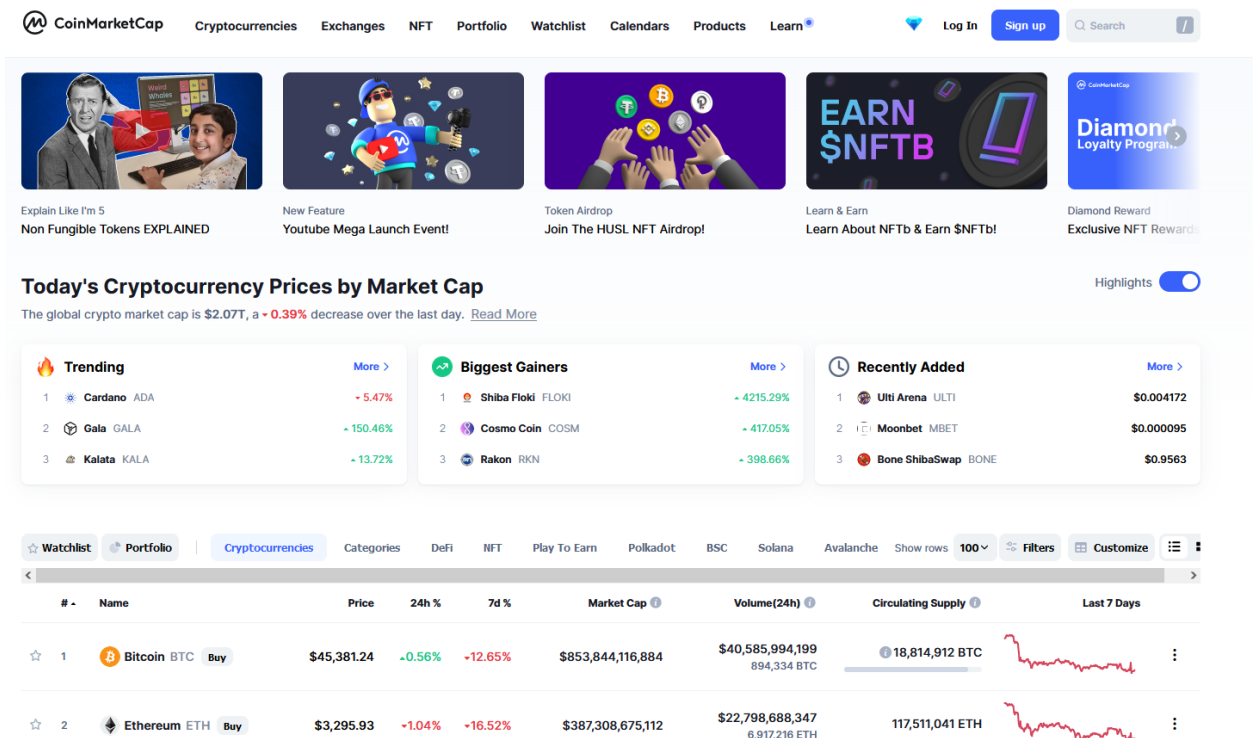
**Total Supply** *1*

633,542,658,973

*Overview* *Market* *Historical Data* *Holders* *W* *Analysis* *Price Estimates* *Share*

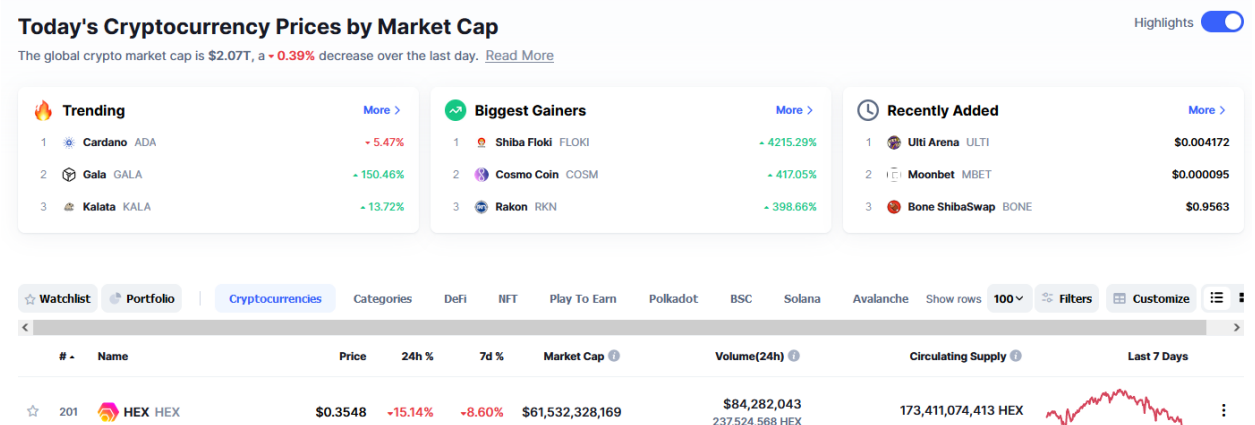
**HEX to USD Chart** **HEX to USD Converter**

78. CoinMarketCap.com's homepage bills itself as displaying a list of "Today's Cryptocurrency Prices by Market Cap[.]".



79. HEX's "verified" market cap should have seen it ranked, at the time, sixth, near the top of the first page, as of September 13, 2021. This ranking would place it between Binance Coin and XRP.

80. Instead, HEX was ranked 201, on the third page of results.



## GENERAL ALLEGATIONS

81. Plaintiff incorporates by reference all preceding and subsequent allegations.
82. CoinMarketCap.com provides an assessment of the market cap for various cryptocurrencies and ranks cryptocurrencies on the basis of their overall market cap in comparison to those of other cryptocurrencies.
83. Though HEX was the best performing cryptocurrency of 2020, CoinMarketCap.com locked HEX's ranking at #201<sup>36</sup> sometime that year and has refused to adjust it on the basis of HEX's performance as related to other cryptocurrencies ever since (the "Suppression Period").
84. CoinMarketCap.com provides its historical rankings on its website.
85. These historical rankings reveal that HEX was ranked 20<sup>th</sup> as recently as September 20, 2020, in line with CoinMarketCap.com's estimation of HEX's market cap.<sup>37</sup>
86. However, by September 27, 2020, the Suppression Period had begun.<sup>38</sup>
87. HEX's ranking remains locked.<sup>39</sup>
88. As CoinMarketCap.com's website provides only four "snapshots" a month of the historical rankings, Plaintiff is currently unaware of exactly when exactly the Suppression Period began but expects that discovery will reveal a precise answer to that question.
89. CoinMarketCap.com's locking of HEX's ranking has caused HEX to trade at lower prices than it would have had the ranking not been locked.
90. The higher a cryptocurrency is ranked, the higher up it appears on the homepage of CoinMarketCap.com's website for interested users to purchase.

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<sup>36</sup> With occasional and slight downward fluctuations.

<sup>37</sup> *Historical Snapshot – 20 September 2020*, COINMARKETCAP, <https://coinmarketcap.com/historical/20200920/> (last visited Aug. 31, 2021).

<sup>38</sup> *Historical Snapshot – 27 September 2020*, COINMARKETCAP, <https://coinmarketcap.com/historical/20200927/> (last visited Aug. 31, 2021).

<sup>39</sup> *Today's Cryptocurrency Prices by Market Cap*, COINMARKETCAP, <https://coinmarketcap.com/?page=3> (last visited Aug. 31, 2021).

91. Users must scroll through additional pages to view lower-ranked cryptocurrencies.
92. One of the cryptocurrencies listed on CoinMarketCap.com's website is Binance Coin.
93. Upon information and belief, Binance Coin was issued by Binance.
94. As of July 21, 2021, CoinMarketCap ranked Binance Coin as the 4<sup>th</sup> largest cryptocurrency.
95. Another of the cryptocurrencies listed on CoinMarketCap.com's website is Binance USD.
96. Upon information and belief, Binance USD was issued by Binance.
97. Upon information and belief, Binance and its principals, including Zhao, have a financial interest in ensuring the strongest possible demand for BinanceCoin and BinanceUSD.
98. As of July 21, 2021, CoinMarketCap ranked Binance USD as the tenth largest cryptocurrency.
99. According to Nomics HEX's true market cap was \$85.3 billion as of July 21, 2021.
100. At this market cap, HEX should have been ranked third in size as of July 21, 2021.
101. As of July 21, 2021, CoinMarketCap.com listed HEX's market cap as just over \$25.6 billion.
102. Even at that market cap, HEX should be ranked sixth in size as of July 21, 2021.
103. As of July 21, 2021 CoinMarketCap.com instead ranked HEX 201 in size.
104. Accordingly, as of July 21, 2021, HEX appeared only on the third page of CoinMarketCap.com's results.
105. Upon information and belief, some other websites that allow users to buy cryptocurrencies also present them in the order they are found in CoinMarketCap.com's market cap rankings.



1 106. Upon information and belief, the discrepancy between CoinMarketCap's  
2 artificially low ranking (#201) and other sites' rankings (4th-10th) caused  
3 investors who relied primarily on CoinMarketCap to avoid purchasing HEX in  
4 favor of cryptocurrencies ranked higher on CoinMarketCap's platform."

5 107. Upon information and belief, institutional and retail investors regularly use  
6 CoinMarketCap rankings as a primary screening tool, with many investors  
7 limiting their consideration to cryptocurrencies ranked in the top 50 or top 100,  
8 thereby excluding HEX from consideration during the Suppression Period.

9 108. At the same time, smaller ranking websites including Nomics.com,  
10 CoinRanking.com, YahooCrypto, TradingviewCrypto, Coinpaprika.com,  
11 Etherscan.io, and CryptoCurrencyCap.com all had HEX ranked between fourth  
12 and tenth in size as of June 18, 2021.

13 109. CoinMarketCap.com's failure to properly rank HEX has artificially suppressed  
14 HEX's value to the detriment of Plaintiff and those similarly situated.

15 110. Despite other ranking sites correctly placing HEX in the top 10,  
16 CoinMarketCap's position as the 'dominant data source and go-to platform' (as  
17 described herein) means that its rankings carry disproportionate weight in  
18 investor decision-making, effectively nullifying the impact of more accurate  
19 rankings on smaller platforms.

20 111. For example, but for CoinMarketCap.com's failure to properly rank HEX, at  
21 least some individuals who purchased higher ranked cryptocurrencies would  
22 have purchased HEX instead, suppressing the price of HEX and inflating the  
23 price of one or more other cryptocurrencies, including those issued by Binance.

24 112. Similarly, CoinMarketCap.com's failure to properly rank HEX has had the  
25 effect of directing buyers away from HEX and towards cryptocurrencies that can  
26 be purchased through Blockchain.com or Binance.

27 113. Upon information and belief this provides a financial advantage to  
28 CoinMarketCap.com, Binance, Binance.US, Blockchain.com, and individuals

1 associated with those companies.

2 114. CoinMarketCap.com's failure to properly rank HEX has also artificially inflated  
3 the value of some or all of the cryptocurrencies ranked above HEX including  
4 those issued by Binance.

5 115. HEX is heavily traded. For the 24 hours ending July 21, 2021 at 7:35PM,  
6 CounMarketCap.com reports that HEX trading volume was \$79,338,170.  
7 Trading volume during each of the prior seven days was higher. Between May  
8 22, 2021 and July 21, 2021, the lowest daily trading volume was \$22,972,397.

9 116. Upon information and belief, HEX's trading volume and market adoption were  
10 artificially suppressed relative to its market capitalization due to its low ranking  
11 on CoinMarketCap, as investors typically discover and research  
12 cryptocurrencies through CoinMarketCap's ranking system.

13 117. HEX and other cryptocurrencies receive widespread coverage in the financial  
14 press and by cryptocurrency analysts.

15 118. According to coincodex.com, as of July 22, 2021, there were thirteen exchanges  
16 on which HEX could be traded.

17 119. There is a cause and effect relationship between unexpected material disclosures  
18 and the price of HEX.

19 120. For example, the inventor of HEX created another cryptocurrency called  
20 Pulsechain. It was recently made public that holders of HEX would have the  
21 opportunity to acquire this new cryptocurrency at an earlier phase than others,  
22 causing or contributing to an increase of the price of HEX.

23 121. While HEX's price increased during certain periods of the Suppression Period  
24 due to specific developments like the Pulsechain announcement, upon  
25 information and belief, HEX's price appreciation was artificially constrained by the  
26 ranking manipulation and would have achieved significantly higher valuations absent  
27 CoinMarketCap's suppression of its ranking.

28 122. Indeed, since the initial filing of this suit, HEX's price has further declined, and

1 has gone to practically zero in value.

2 123. Such a cause and effect relationship exists for many other cryptocurrencies listed  
3 or offered for sale by Defendants as well.

4 124. The market for HEX and some or all of the cryptocurrencies ranked above HEX  
5 by CoinMarketCap is efficient.

6 **ILL-WILL OF DEFENDANTS TOWARDS HEX AND ITS CREATORS**

7 125. Plaintiff incorporates by reference all preceding and subsequent allegations.

8 126. Bitcoin is the world's largest cryptocurrency by market cap.

9 127. Upon information and belief, Bitcoin is also the most commonly traded  
10 cryptocurrency on Binance and Binance.US's exchanges and a key profit driver  
11 for both exchanges.

12 128. Changpeng Zhao stated in a February 2021 interview that he keeps nearly  
13 100% of his 1.9 billion USD net worth in cryptocurrencies. Upon information  
14 and belief he has also stated that Bitcoin is one of his favorite cryptocurrencies  
15 to hold.

16 129. Upon information and belief, no Defendant owns any units of HEX.

17 130. For example, for holders of Bitcoin to earn interest, they must give their  
18 "private key" to a third party, increasing the risk of theft. HEX is designed to  
19 allow users to earn interest without this risk.

20 131. Neither of the Defendants can make money off of HEX the way they do off  
21 other Cryptocurrencies because HEX is not traded on the Binance or  
22 Binance.US exchanges.

23 132. Further, HEX is designed to generate interest when "staked", which  
24 discourages active trading. If the HEX model succeeds, it will further  
25 undermine the businesses of exchanges like Binance and Binance.US and coin  
26 rankings sites like CoinMarketCap.com insofar as exchanges make money  
27 only when an investor trades and coin ranking sites make money by sending  
28 such investors to exchanges to trade.

133. Recognizing the threat that HEX posed, just prior to the beginning of the Suppression Period, Binance launched Binance Smart Chain. According to Binance’s press release announcing the launch, Binance Smart Chain “introduce[d] an all-new staking mechanism for BNB [AKA Binance Coin], one of the world’s top cryptocurrencies.”<sup>40</sup> Thus Binance Coin became a direct competitor to HEX.

134. Conveniently, Binance Coin “was created as a utility token for discounted trading fees” on Binance’s exchanges and such fees can also be paid in Binance Coin.<sup>41</sup>

135. Binance Smart Chain also allows other cryptocurrencies built on the Binance Smart Chain to be “staked.”

136. HEX is not built on the Binance smart chain.

137. Defendants financially benefit from the adoption of both of Binance Coin and the Binance Smart Chain by investors.

138. Defendants’ actions have limited the adoption of HEX and thus made it more difficult for HEX’s model to succeed.

139. HEX’s creator, Richard Heart, is a vocal critic of Binance and CoinMarketCap.com.

140. Persons with a close connection to CoinMarketCap.com have also expressed a personal dislike of HEX’s creator.

### CLASS ACTION ALLEGATIONS

141. Plaintiff incorporates by reference all preceding and subsequent allegations.

142. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal

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<sup>40</sup> *Binance Smart Chain Launches Today*, BINANCE (Aug. 31, 2020), <https://www.binance.com/en/blog/421499824684900933/binance-smart-chain-launches-today> (last visited Sept. 13, 2021).

<sup>41</sup> Jake Frankenfield, *Binance Coin (BNB)*, INVESTOPEDIA (Aug. 17, 2021), <https://cointelegraph.com/news/coinmarketcap-initially-rejected-the-metric-that-now-puts-binance-at-no1> (last visited Sept. 13, 2021).

Rules of Civil Procedure **on behalf of all persons who sold HEX during the Suppression Period which they had acquired prior to the Suppression Period** (the “Class”).

143. Excluded from the Class are Defendants and their families, their officers and directors at all relevant times, members of their immediate families, Defendants’ heirs, successors or assigns and any entity in which defendants have or had a controlling interest. Also excluded from the class is counsel for any party.

144. The members of the Class are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court. As of July 21<sup>st</sup>, 2021, there were approximately 173.4 billion units of HEX outstanding.

145. As of July 23<sup>rd</sup>, 2021 HEX was held in over 300,000 unique wallets.<sup>42</sup>

146. Upon information and belief HEX has hundreds of thousands of individual holders.

147. The class has far more than 100 or more members, there is at least minimal diversity between the parties, and the amount in controversy far exceeds \$5,000,000.

148. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class which predominate over questions which may affect individual Class members include:

a. Whether Defendants violated the Commodity Exchange Act, the Arizona

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<sup>42</sup> *Hex.vision*, ELASTIC, [\(https://hex.vision/app/dashboards#/view/feeb2b40-242b-11ea-b36a-afff3b35cff3?\\_g=\(filters:!\(\),refreshInterval:\(pause:!t,value:0\),time:\(from:now-30d,to:now\)\)&\\_a=\(description:'Home%20page%20displaying%20statistics%20from%20many%20different%20aspects%20of%20HEX',filters:!\(\),fullScreenMode:!f,options:\(hidePanelTitles:!f,useMargins:!t\),query:\(language:kuery,query:'\),tags:!\(\),timeRestore:!t,title:Overview,viewMode:view\)](https://hex.vision/app/dashboards#/view/feeb2b40-242b-11ea-b36a-afff3b35cff3?_g=(filters:!(),refreshInterval:(pause:!t,value:0),time:(from:now-30d,to:now))&_a=(description:'Home%20page%20displaying%20statistics%20from%20many%20different%20aspects%20of%20HEX',filters:!(),fullScreenMode:!f,options:(hidePanelTitles:!f,useMargins:!t),query:(language:kuery,query:'),tags:!(),timeRestore:!t,title:Overview,viewMode:view)) (last visited Aug. 31, 2021).

Consumer Fraud Act, the 1934 Act, Arizona securities law, and federal and state antitrust law, and;

- b. Whether Defendants omitted and/or misrepresented material facts;
- c. Whether Defendants' statements were at the time and in the light of the circumstances under which made, false or misleading;
- d. Whether Defendants knew or deliberately disregarded that their statements were false and misleading;
- e. Whether the price of HEX has been artificially suppressed; and
- f. The extent of damage sustained by Class members and the appropriate measure of damages.

149. Plaintiff's claims are typical of those of the Class because Plaintiff and the Class sustained damages from Defendants' wrongful conduct.

150. Plaintiff will adequately protect the interests of the Class and has retained as counsel firms with attorneys who are experienced in class action, commercial, commodities and securities litigation. Plaintiff has no interests which conflict with those of the Class.

151. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

152. Plaintiff and the class set forth their causes of action below. Discovery may reveal that one or more Defendants have engaged in other violations of law giving rise to private rights of action. Plaintiffs will seek leave to amend this complaint at the appropriate time if such violations are revealed.

### SPECIFIC ANTITRUST ALLEGATIONS

153. Defendants violated Section 2 of the Sherman Act, through both monopolization and, in the alternative, attempted monopolization.

#### *Monopoly Power in the Relevant Market*

154. The relevant product market is the market for cryptocurrency ranking and information services.

1 155. The relevant geographic market is the United States of America, including its  
2 territories and the District of Columbia.

3 156. This relevant product market and relevant geographic market is collectively  
4 referred to herein as the “Relevant Antitrust Market.”

5 157. Within the Relevant Antitrust Market, Defendants exercise monopoly power or,  
6 in the alternative and at a minimum, have attempted to gain monopoly power as  
7 described herein.

8 158. Based on website traffic data, CoinMarketCap controls approximately 70% of  
9 the Relevant Market. Its closest competitor, CoinGecko, controls less than 22%  
10 of the market, with all remaining competitors holding less than 3% each. This  
11 market structure demonstrates CoinMarketCap’s ability to exercise monopoly  
12 power without meaningful competitive constraint.

13 159. This market disparity is cemented and maintained by the market structure and  
14 its network effects: users naturally favor established websites for informational  
15 purposes, and the effect is enhanced here when CoinMarketCap is backed by the  
16 well-known “Binance” brand. This creates an insurmountable barrier to entry  
17 for new entrants.

18 160. The cryptocurrency ranking services market is characterized by significant  
19 barriers to entry, including by example but without limitation: (a) the substantial  
20 costs and technical expertise required to collect, verify, and maintain  
21 comprehensive cryptocurrency data from hundreds of exchanges worldwide;  
22 (b) the need to establish trust and credibility with both cryptocurrency projects  
23 and investors; (c) network effects whereby more users attract more data sources,  
24 which in turn attracts more users; and (d) first-mover advantages in establishing  
25 industry-standard methodologies and relationships.

26 161. CoinMarketCap’s monopoly power is further demonstrated by its ability to  
27 manipulate ranking methodologies without losing significant market share, as  
28 evidenced by its post-acquisition changes to exchange ranking criteria that



1 favored Binance, and its suppression of HEX's ranking without meaningful user  
2 migration to competitors.

3 162. Alternative platforms are often not adequate substitutes because they lack  
4 CoinMarketCap's comprehensive data coverage, industry recognition, and  
5 integration with major exchanges and financial platforms that rely on  
6 CoinMarketCap as the industry standard.

7 163. In the alternative, if Defendants are found not to possess monopoly power,  
8 Defendants have attempted to monopolize the Relevant Antitrust Market in  
9 violation of Section 2 of the Sherman Act.

10 164. Defendants possessed specific intent to monopolize the Relevant Antitrust  
11 Market, as evidenced by their systematic manipulation of cryptocurrency  
12 rankings to favor Binance-affiliated products and suppress competitors like  
13 HEX.

14 165. To the extent that they have not already done so, there is a dangerous probability  
15 that Defendants will achieve monopoly power given CoinMarketCap's already  
16 dominant market position and the barriers to entry described herein.

17 166. Defendants have engaged in anticompetitive conduct as described herein that is  
18 reasonably capable of creating monopoly power in the Relevant Antitrust  
19 Market.

20 *Willful Acquisition or Maintenance of Monopoly Power Through Exclusory Conduct*

21 167. Defendants have willfully acquired and maintained their monopoly power  
22 through exclusionary conduct rather than competition on the merits, superior  
23 products, or business acumen.

24 168. Specifically, but by example and not limitation, Defendants have engaged in the  
25 following anticompetitive conduct: (a) artificially suppressing HEX's ranking  
26 on CoinMarketCap despite verified market capitalization data that would place  
27 HEX among the top ten cryptocurrencies; (b) locking HEX's while allowing  
28 other cryptocurrencies to move freely based on market performance; (c)

manipulating ranking methodologies post-acquisition to favor Binance-affiliated products such as Binance Coin; and (d) using CoinMarketCap's dominant position to steer users toward Binance exchanges while providing false or misleading ranking information.

169. This conduct constitutes willful maintenance of monopoly power because, by example and without limitation, it: (a) creates artificial barriers preventing competitors from reaching consumers based on legitimate market metrics; (b) leverages dominance in the cryptocurrency information market to maintain and extend market power; (c) excludes competition through manipulation rather than superior service or innovation; and (d) lacks any legitimate business justification.

170. Defendants' conduct was undertaken with specific intent to maintain market dominance and exclude competitive threats, as evidenced by, through example and not limitation: (a) the timing of HEX's ranking suppression coinciding with Binance's acquisition of CoinMarketCap and launch of competing Binance Smart Chain; (b) Defendants' financial incentive to suppress HEX, which competes with Binance Coin and threatens Defendants' cryptocurrency holdings; and (c) the selective application of ranking criteria that systematically disadvantages non-Binance affiliated cryptocurrencies.

#### *Antitrust Injury*

171. Plaintiff and the Class have suffered antitrust injury that flows directly from Defendants' anticompetitive conduct and is of the type the antitrust laws were designed to prevent.

172. By example and not limitation, Defendants' manipulation of cryptocurrency rankings has harmed competition by: (a) distorting essential market information on which investors rely; (b) creating artificial barriers to market entry and success for competing cryptocurrencies; (c) reducing consumer choice by steering investors away from superior alternatives; and (d) undermining the

efficiency of cryptocurrency markets through false and manipulated data.

173. This conduct has directly injured Plaintiff and the Class, by example and not limitation, by: (a) causing them to receive artificially suppressed prices when selling their HEX holdings; (b) depriving them of the full market value their investments would have commanded absent the ranking manipulation; and (c) forcing them to make investment decisions based on false and misleading market information.

174. The injuries suffered by Plaintiff and the Class flow directly from the anticompetitive aspects of Defendants' conduct—the manipulation of market information to exclude competition—rather than from legitimate competitive activity, and represent precisely the type of consumer and competitive harm the antitrust laws were designed to prevent.

### **FIRST CAUSE OF ACTION**

#### **(PRIVATE CAUSE OF ACTION UNDER THE COMMODITY EXCHANGE ACT FOR MANIPULATION OF COMMODITY PRICES AND PROVISION OF FALSE, MISLEADING, OR KNOWINGLY INACCURATE REPORTS TENDING TO AFFECT THE PRICE OF COMMODITIES)**

#### **(ALL DEFENDANTS)**

175. Plaintiff incorporates by reference all preceding and subsequent allegations.

176. 7 U.S. Code § 25 (“Private Rights of Action”) provides a private right of action against any person who violates USC Title 7, Ch. 1 as well as against any person “who willfully aids, abets, counsels, induces, or procures the commission of a violation[.]”.

177. 7 U.S. Code § 13(a)(2). provides that it is unlawful for:

*Any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce . . . or knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or*

*misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce[.]*

7 U.S. Code § 13(a)(2).

178. 7 U.S. Code § 9(1, 3) provides that it is:

*[U]nlawful for any person, directly or indirectly, to manipulate or attempt to manipulate the price of any swap, or of any commodity in interstate commerce[.]*

179. Other portions of Title 7, Ch. 1 contain similar provisions, as does other applicable law.

180. Cryptocurrencies are commodities. According to the US Commodity Futures Trading Commission: “[V]irtual currencies, such as Bitcoin, have been determined to be commodities under the Commodity Exchange Act (CEA).”<sup>43</sup>

181. Defendant CoinMarketCap.com has made untrue statements concerning HEX’s ranking. Its ranking of Hex, among other things:

- a. Is not accurate in light of HEX’s true market cap or even CoinMarketCap.com own data on the size of HEX’s market cap.
- b. Contradicts the rankings of other, smaller, ranking websites, which provide much more accurate rankings for HEX.
- c. Results from a misapplication, or selective application, of CoinMarketCap.com’s own rankings guidelines.

182. Similarly, because Binance.US directs users to CoinMarketCap.com’s website for “objective” information about the various cryptocurrencies Binance.US offers for sale, Binance.US has participated in the making of statements that are false.

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<sup>43</sup> *Bitcoin Basics*, U.S. COMMODITY FUTURES TRADING COMM’N, [https://www.cftc.gov/sites/default/files/2019-12/oceo\\_bitcoinbasics0218.pdf](https://www.cftc.gov/sites/default/files/2019-12/oceo_bitcoinbasics0218.pdf) (last visited Sept. 13, 2021).

1 183. These statements are false even on the face of CoinMarketCap.com's own data  
2 and in light of its own procedures. The statements also contradict those made  
3 by other rankings websites, all of which all Defendants have access to.

4 184. Further, upon information and belief, numerous holders of HEX have advised  
5 CoinMarketCap.com that its ranking of Hex is inaccurate.

6 185. CoinMarketCap.com has more users than any other product in the  
7 cryptocurrency industry.

8 186. CoinMarketCap.com is the dominant data source in the cryptocurrency asset  
9 pricing space.

10 187. CoinMarketCap.com is the dominant data source relied upon by retail  
11 cryptocurrency investors and is also extensively relied upon by exchanges.

12 188. There is a direct relationship between the value of a cryptocurrency and its  
13 market capitalization ranking. All other things being equal, Cryptocurrencies to  
14 with CoinMarketCap.com assigns higher rankings are considered to be more  
15 solid investments and hence more valuable. They will also be seen by more  
16 investors, increasing demand and therefore their prices.

17 189. CoinMarketCap.com possesses the ability to essentially hide cryptocurrencies  
18 from a large portion of retail investors by manipulating the ranking of a  
19 cryptocurrency and thus suppress the market for such cryptocurrencies as well  
20 as their price.

21 190. When a cryptocurrency is ranked artificially low by CoinMarketCap.com such  
22 investors and traders as are still aware of it are confused and the reputation of  
23 the cryptocurrency is damaged.

24 191. In addition, CoinMarketCap.com has the ability to artificially inflate the price  
25 of cryptocurrencies through the market cap and other data it presents.

26 192. CoinMarketCap.com's dominance is bolstered by the fact that Binance, the  
27 world's largest cryptocurrency exchange, and its US subsidiary Binance.US,  
28 encourage investors to rely on CoinMarketCap.com's information when

1 making investment decisions.

2 193. Even if CoinMarketCap.com was not so completely dominant, it would have  
3 the ability to influence market prices.

4 194. Defendants possessed, and continue to possess, an ability to influence market  
5 prices.

6 195. Because of CoinMarketCap.com's ability to influence market prices through  
7 the market cap rankings it assigns to various cryptocurrencies, and the fact that  
8 it has assigned an artificially low ranking to Hex, Hex's value has been lower  
9 than it otherwise would have been throughout the Suppression Period.

10 196. CoinMarketCap has misrepresented both HEX's ranking and that of every  
11 other cryptocurrency ranked between #201 and HEX's true ranking.

12 197. By misrepresenting HEX's ranking CoinMarketCap.com has directly or  
13 indirectly participated in the artificial manipulation of the prices of one or  
14 more commodities.

15 198. Even if it were the case that CoinMarketCap.com's users were solely  
16 responsible for the rankings, which it is not, their failure to correct such a  
17 clearly erroneous ranking would constitute indirect manipulation.

18 199. By encouraging those contemplating buying or selling cryptocurrencies to rely  
19 on CoinMarketCap.com's rankings, Binance, Binance.US, and the individual  
20 defendants, have directly or indirectly participated in the artificial  
21 manipulation of the price of one or more commodities.

22 200. In addition, Binance is responsible for helping CoinMarketCap provide the  
23 public with "higher quality data[.]".<sup>44</sup>

24 201. Further, Binance.US, though highly experienced in the field of  
25 cryptocurrency, authorized CoinMarketCap.com to continue to proceed on their  
26 behalf as an affiliate and marketing channel in dereliction of regulation

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27 <sup>44</sup> *About CoinMarketCap*, COINMARKETCAP, <https://coinmarketcap.com/about/> (last  
28 visited Aug. 31, 2021).

requirements.

202. Defendants specifically intended to cause the artificial price.

203. Defendants had the motive to perform the acts and omissions complained of in order to limit the threat HEX posed to their business models, Binance Coin, Binance Smart Chain, the value of their cryptocurrency holdings and, upon information and belief, in the case of CoinMarketCap.com, because of personal animus against HEX'S creator as well on the part of its principals as well.

204. Alternatively, there is strong circumstantial evidence of conscious misbehavior or recklessness on the part of Defendants.

205. Defendants either willfully participated in the manipulation or failed to review or check information that they had a duty to monitor, or ignored obvious signs of market manipulation.

206. For these and the other reasons set forth herein, Defendants have violated the Commodity Exchange Act.

207. For these and the other reasons set forth herein, because of Defendants' actions Plaintiffs and the class have been directly damaged. For example, upon the sale of their HEX, they have either lost money or failed to make the profit they would otherwise would have made upon the sale of their Hex but for the manipulation.

**SECOND CAUSE OF ACTION**  
**(STRICT LIABILITY FOR VIOLATIONS OF THE COMMODITY EXCHANGE**  
**ACT)**  
**(BINANCE.US)**

208. Plaintiff incorporates by reference all preceding and subsequent allegations.

209. An expansive variant of respondeat superior liability applies to violations of the Commodity Exchange Act. *In re Amaranth Nat. Gas Commodities Litig.*, 587 F. Supp. 2d 513, 531-32 (S.D.N.Y. 2008) (*affirmed by In re Amaranth*



*Natural Gas Commodities Litig.*, No. 12-2075-cv, 2013 U.S. App. LEXIS 19444 (2d Cir. Sept. 23, 2013).

210. Private causes of action for respondeat superior liability for violations of the Commodity Exchange Act comport with Congress's view that private lawsuits are critical to protecting the public. They cannot be contracted away in agreements between principals and subsidiaries. *Cange v. Stotler & Co.*, 826 F.2d 581, 594-95 (7th Cir. 1987)

211. As pointed out by the Seventh Circuit, agency under the CEA is premised on respondeat superior liability, and it is not necessary that the principal direct the act or have knowledge of the agent's actions. *Dohmen-Ramirez v. Commodity Futures Trading Com.*, 837 F.2d 847, 858 (9th Cir. 1988) (citing, among other sources, *Cange*, 826 F.2d at 589).

212. Binance.US runs Binance as the term "Binance" is defined on <https://www.binance.com/en/terms> (the "Binance Terms") for reasons including:

- a. That the website Binance.com takes US users Binance.US's website (assuming that there is a distinction at all).
- b. That Binance.US provides Binance Services, as that phrase is defined in the Binance Terms, in that it utilizes internet or blockchain technologies developed by Binance and one or more Binance ecosystem components such as "digital asset trading platforms"

213. In an April, 2020 Forbes Magazine interview, the CEO of Binance.US, Catherine Coley, stated that she reported to BAM's board of directors and that the other two people on the board were Defendant Zhao and Wei Zho, then Binance's CFO.<sup>45</sup>

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<sup>45</sup> Jason Brett, *How Catherine Coley of Binance.US Sees Digital Dollars As A 'Binary' Choice For America*, FORBES (April 6, 2020), <https://www.forbes.com/sites/jasonbrett/2020/04/01/how-catherine-coley-of-binanceus-sees-digital-dollars-as-a-binary-choice-for-america/?sh=2918d09b4710> (last visited Aug.

1       214. Upon information and belief, Binance.US currently lacks a CEO and the only  
2       individuals remaining on its board are Binance executives.

3       215. As a Binance Operator, Binance.US is bound by the Binance Terms as well as  
4       by the terms of its supposed “brand partnership” with Binance and any  
5       technology licenses with Binance.

6       216. Binance.US is also responsible for ensuring that Binance’s US operations,  
7       including those of its Operator and strategic partner CoinMarketCap.com,  
8       comply with American law.

9       217. In addition, Binance is responsible for helping CoinMarketCap.com provide  
10      the public with “higher quality data[.]”<sup>46</sup>

11      218. CoinMarketCap.com is a Binance Operator because, for among other reasons,  
12      it runs the Binance Service “Info.”

13      219. As a Binance Operator, CoinMarketCap.com is bound by the Binance Terms  
14      as well as by the terms of its other contracts with Binance and Binance.US.

15      220. Binance.US and/or CoinMarketCap.com are Binance strategic partners.

16      221. Binance held CoinMarketCap.com and Biannce.US out to consumers as part of  
17      its “ecosystem” as encouraged them to rely on it as an accurate source of  
18      information for making cryptocurrency investment decisions, including on  
19      Binance and Binance.US’s platforms. CoinMarketCap.com knew it was being  
20      held out this way by Binance.

21      222. Binance.US certified to consumers that CoinMarketCap.com’s information  
22      was reliable.

23      223. CoinMarketCap.com was to benefit Binance by attracting investors to visit the  
24      site as a source of information and then funneling those investors to Binance  
25      and Binance.US.

26  
27      31, 2021).

28      <sup>46</sup> *About CoinMarketCap*, COINMARKETCAP, <https://coinmarketcap.com/about/> (last visited Aug. 31, 2021).

224. CoinMarketCap.com was also to benefit Binance.US by suppressing Hex's ranking so that it would not be as visible as the directly competitive Binance Coin and so that it would pose less of a competitive threat to Binance Smart Chain.

225. For these and the other reasons set forth herein, Binance.US is jointly and severally liable for the torts of CoinMarketCap.com under the common law and statutory version<sup>47</sup> of respondeat superior applicable to commodities.

226. Alternatively, for these and the other reasons set forth herein, the corporate veil should be pierced between Binance.US, and CoinMarketCap.com.

**THIRD CAUSE OF ACTION**  
**(VIOLATION OF THE ARIZONA CONSUMER FRAUD ACT)**  
**(ALL DEFENDANTS)**

227. Plaintiff incorporates by reference all preceding and subsequent allegations.

228. Arizona's Consumer Fraud Act makes unlawful the "use or employment by any person of any deception, deceptive or unfair act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely on such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby[.]" A.R.S. § 44-1522(A).

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<sup>47</sup> "The Ninth Circuit has yet to determine the relationship between the common law doctrine of respondeat superior liability and liability under section 2(a)(1). However, the Seventh Circuit has held that section 2(a)(1)) imposes strict liability, under a respondeat superior theory, on principals for the actions of their agents. *Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966 (7th Cir. 1986). This liability is imposed even if the agents are not employees, if the principal authorizes or ratifies the acts or even just creates the appearance that the acts are authorized. *Id.*

We agree with the reasoning of the Seventh Circuit that because the language of section 2(a)(1) expressly imputes the agent's wrongdoing to the principal, it imposes strict liability." *Dohmen-Ramirez v. Commodity Futures Trading Com.*, 837 F.2d 847, 857-58 (9th Cir. 1988).

- 1 229. Arizona law provides that “merchandise” includes securities as well as other  
2 “intangibles.”.
- 3 230. Cryptocurrencies, including HEX, are “intangibles.”.
- 4 231. There is private right of action in Arizona for violations of the Arizona  
5 Consumer Fraud Act.
- 6 232. Where there is no conflict with Arizona law, “courts may use as a guide  
7 interpretations given by the federal trade commission and the federal courts  
8 to 15 United States Code sections 45, 52 and 55(a)(1).” A.R.S. 44-1522(C).
- 9 233. 15 U.S. Code § 45 provides: “[U]nfair or deceptive acts or practices in or  
10 affecting commerce, are hereby declared unlawful.”
- 11 234. Defendant CoinMarketCap.com advertised merchandise on behalf of  
12 Blockchain.com, Binance, Binance.US and others.
- 13 235. Defendants CoinMarketCap.com and Binance.US used deception, used a  
14 deceptive act or practice, used fraud, used false pretense, made a false  
15 promise, made a misrepresentation, or conceal, suppressed or omitted material  
16 facts concerning the true ranking of various cryptocurrencies in connection  
17 with the sale or advertisement of said merchandise.
- 18 236. For example, Binance.US held CoinMarketCap.com out as an objective and  
19 reliable source of information that consumers should rely on in making their  
20 cryptocurrency trading decisions. Binance.US continued to use  
21 CoinMarketCap.com to drive traffic to its exchange and thereupon sold various  
22 cryptocurrencies at prices and/or volumes that had been artificially inflated by  
23 CoinMarketCap.com’s market manipulation. These include, but are not limited  
24 to, cryptocurrencies issued by Binance and cryptocurrencies owned by various  
25 Defendants.
- 26 237. CoinMarketCap.com, meanwhile, advertised Binance.US’s services as a  
27 place to buy and sell cryptocurrency and linked users who were interested in  
28 purchasing such cryptocurrency to that website.

1 238. CoinMarketCap.com also prominently displayed cryptocurrencies like Binance  
2 Coin as being available for purchase, supposedly by virtue of their market cap,  
3 but without showing a competitor entitled to be ranked nearby by virtue of its  
4 market cap. Defendants did all this while holding CoinMarketCap.com  
5 out as independent and objective.

6 239. The Defendants intended that others rely upon the such unlawful practices in  
7 evaluating which cryptocurrencies to buy, sell, or hold and at what price  
8 such cryptocurrencies should be bought, sold, or held.

9 240. For these and the other reasons set forth herein, the Defendants have  
10 violated the Arizona Consumer Fraud Act.

11 241. Plaintiff and the Class suffered damages as a result of Defendants' unlawful  
12 practices.

13 242. Plaintiff and the Class have suffered damages due to Defendants' fraud on the  
14 market in that they received artificially suppressed prices in exchange for their  
15 units of HEX.

16 243. Alternatively, Plaintiff and the Class have suffered damages due to  
17 Defendants' failure to disclose the true ranking of HEX and the  
18 cryptocurrencies ranked above it by CoinMarketCap.com

19 244. Alternatively, Plaintiff and the Class have suffered damages in that they would  
20 not have sold HEX at the prices they did, if at all, if they had been aware that the  
21 market price had been artificially and falsely suppressed by Defendants'  
22 misleading statements.

23 245. Alternatively, Plaintiff Class relied on CoinMarketCap.com to apprise them of  
24 HEX's true ranking and would not have sold HEX at the prices they did, if at  
25 all, had CoinMarketCap.com apprised them of HEX's true ranking.  
26  
27  
28

**FOURTH CAUSE OF ACTION**  
**(CONTROL PERSON LIABILITY FOR VIOLATIONS OF THE ARIZONA**  
**CONSUMER FRAUD ACT)**  
**(BINANCE.US)**

246. Plaintiff incorporates by reference all preceding and subsequent allegations.

247. Both federal and Arizona securities law makes Defendant CoinMarketCap.com's controlling persons jointly and severally liable for the violations of the Arizona Consumer Fraud Act complained herein. *See e.g.* Section 20(a) of the 1934 act; ARS §§ 44-1999, 44-2003(A). This standard serves to inform violations of the Arizona Consumer Fraud Act.

248. Defendant Binance.US, by virtue of its officers, stock ownership, agency, agreements or understandings, specific acts, or other means had the ability to exercise direct or indirect control over the management and activities of CoinMarketCap.com and its employees complained of herein.

249. Binance.US runs Binance as the term "Binance" is defined on <https://www.binance.com/en/terms> (the "Binance Terms") for reasons including:

a. That the website Binance.com takes US users Binance.US's website (assuming that there is a distinction at all).

b. That Binance.US provides Binance Services, as that phrase is defined in the Binance Terms, in that it utilizes internet or blockchain technologies developed by Binance and one or more Binance ecosystem components such as "digital asset trading platforms"

250. Binance.US exercises control over CoinMarketCap.com's operations directed at United States users. When U.S. users click the "buy" button on CoinMarketCap.com, they are directed to either Blockchain.com or Binance websites, with the Binance link ultimately routing U.S. users to Binance.US's platform. This demonstrates Binance.US's control over how

1 CoinMarketCap.com interfaces with and directs U.S. users.

2 251. Upon information and belief, Binance.US controls and directs  
3 CoinMarketCap.com's ranking displays and methodology as presented to U.S.  
4 users, as evidenced by the fact that CoinMarketCap.com's manipulated rankings  
5 directly benefit Binance.US by steering U.S. users away from cryptocurrencies  
6 not traded on Binance.US (like HEX) and toward cryptocurrencies that generate  
7 transaction fees for Binance.US.

8 252. The integration between CoinMarketCap.com and Binance.US demonstrates a  
9 ctual control: CoinMarketCap.com serves as Binance.US's primary marketing  
10 channel to U.S. users, Binance.US relies on CoinMarketCap.com's rankings to  
11 drive U.S. user acquisition, and both entities coordinate to ensure U.S. users are  
12 funneled from CoinMarketCap.com to Binance.US for cryptocurrency  
13 purchases.

14 253. Binance.US's control is further evidenced by its ability to ensure  
15 CoinMarketCap.com maintains rankings that benefit Binance.US's business  
16 model—specifically, suppressing HEX (which cannot be traded on Binance.US)  
17 while promoting cryptocurrencies that generate fees for Binance.US

18 254. As a Binance Operator, Binance.US is bound by the Binance Terms as well as  
19 by the terms of its supposed "brand partnership" with Binance and any  
20 technology licenses with Binance.

21 255. In addition, Binance is responsible for helping CoinMarketCap provide the  
22 public with "higher quality data[.]"<sup>48</sup>

23 256. CoinMarketCap.com is a Binance Operator because, for among other reasons,  
24 it runs the Binance Service "Info."

25 257. As a Binance Operator, CoinMarketCap.com is bound by the Binance Terms  
26 as well as by the terms of its other contracts with Binance and Binance.US.

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27 <sup>48</sup> *About CoinMarketCap*, COINMARKETCAP, <https://coinmarketcap.com/about/> (last  
28 visited Aug. 31, 2021).



1 258. Binance.US and/or CoinMarketCap were Binance strategic partners.

2 259. Under both federal and Arizona law, such control persons are liable jointly and  
3 severally with CoinMarketCap.com unless they acted in good faith and did not  
4 directly or indirectly induce the act or acts constituting the violation or cause of  
5 action.

6 260. Binance.US knew or should have known that CoinMarketCap.com was  
7 wrongfully fixing HEX's ranking.

8 261. Notwithstanding, it failed to take action to remedy the situation.

9 262. To the contrary, r Binance.US held CoinMarketCap.com out as an  
10 objective and reliable source of information that consumers should rely on in  
11 making their cryptocurrency trading decisions. Binance.US continued to use  
12 CoinMarketCap.com to drive traffic to its exchange and thereupon sold various  
13 cryptocurrencies at prices and/or volumes that had been artificially inflated by  
14 CoinMarketCap.com's market manipulation. These include, but are not limited  
15 to, cryptocurrencies issued by Binance and cryptocurrencies owned by various  
16 Defendants.

17 263. For these and the other reasons set forth herein, all Defendants are jointly and  
18 severally liable with CoinMarketCap.com for the acts and omissions  
19 complained of above.

20 264. The structure of CoinMarketCap itself is opaque and it is difficult for Plaintiff  
21 to ascertain which of its corporate officers, directors, and shareholders are  
22 control persons for the company. When their identities are discovered, this  
23 Complaint will be amended as appropriate.

24 **FIFTH CAUSE OF ACTION**

25 **(SHERMAN ACT SECTION 2 – MONOPOLIZATION)**

26 **(ALL DEFENDANTS)**

27 265. Plaintiff incorporates by reference all preceding and subsequent allegations.

28 266. Defendants' conduct violates Section 2 of the Sherman Act which prohibits the

“monopoliz[ation] [of] any part of the trade or commerce among the several States, or with foreign nations . . . .” 15 U.S.C. § 2.

267. The Relevant Antitrust Market is a valid antitrust market.

268. Defendants possess monopoly power over the Relevant Antitrust Market.

269. Defendants have unlawfully acquired and maintained monopoly power over the Relevant Antitrust Market through the anti-competitive acts described herein.

270. Defendants’ conduct affects a substantial volume of interstate and foreign commerce.

271. Defendants’ conduct has substantial anti-competitive effects.

272. Plaintiff and the members of the Class have been directly and proximately harmed in their respective businesses and properties by the Defendants’ anticompetitive conduct, which is of a type and has occurred in a manner that the antitrust laws were intended to prevent.

273. Plaintiff and the members of the Class have suffered monetary damages.

## **SIXTH CAUSE OF ACTION**

### **(SHERMAN ACT SECTION 2 – ATTEMPTED MONOPOLIZATION)**

#### **(ALL DEFENDANTS)**

274. Plaintiff incorporates by reference all preceding and subsequent allegations.

275. Defendants’ conduct violates Section 2 of the Sherman Act which prohibits the “attempt to monopolize . . . any part of the trade or commerce among the several States, or with foreign nations . . . .” 15 U.S.C. § 2.

276. The Relevant Antitrust Market is a valid antitrust market.

277. Defendants possess substantial market power over the Relevant Antitrust Market.

278. Defendants have unlawfully acquired and maintained substantial market power over the Relevant Antitrust Market through the anti-competitive acts described herein.

279. Defendants possessed the specific intent to monopolize the Relevant Antitrust

1 Market as alleged herein.

2 280. Defendants' course of conduct has the dangerous probability of causing  
3 Defendants to achieve monopoly power over the Relevant Antitrust Market.

4 281. Through their course of conduct, Defendants attempted to monopolize the  
5 Relevant Antitrust Market, in violation of Section 2 of the Sherman Act, 15 U.S.C.  
6 § 2.

7 282. Defendants' conduct affects a substantial volume of interstate and foreign  
8 commerce.

9 283. Plaintiff and the members of the Class have been directly and proximately  
10 harmed in their respective businesses and properties by the Defendants'  
11 anticompetitive conduct, which is of a type and has occurred in a manner that the  
12 antitrust laws were intended to prevent.

13 284. Plaintiff and the members of the Class have suffered monetary damages.

14 **PRAYER FOR RELIEF**

15 285. On behalf of themselves and the Class, Plaintiffs request relief as follows:

- 16 a. That the Court assert jurisdiction over this action;
- 17 b. That the Court determines that this action may be maintained as a class  
18 action, that Plaintiffs be named as Class Representatives of the Class, that  
19 Kolodin Law Group and Schmidt Law Corporation be named as Lead Class  
20 Counsel of the Class, and directs that notice of this action be given to Class  
21 members;
- 22 c. That the Court enter an order declaring that Defendants' actions, as set forth  
23 in this Complaint, violate the federal and state laws set forth above;
- 24 d. That the Court award Plaintiffs and the Class damages in an amount to be  
25 determined at trial including punitive damages owing to Defendants' wanton  
26 or reckless conduct, spite or ill-will, or reckless indifference to the interests  
27 of others and including treble damages under antitrust or other applicable  
28 law.

- 1 e. That the Court enjoin Defendants' unlawful acts as set forth in this complaint  
2 or provide any other equitable relief against Defendants to which Plaintiffs  
3 and the Class are entitled;
- 4 f. That the Court award Plaintiffs and the Class pre- and post-judgment interest  
5 (including pursuant to statutory rates of interest set under state law);
- 6 g. That the Court award Plaintiffs and the Class their reasonable attorneys' fees  
7 and costs of suit;
- 8 h. That the Court order appropriate compensation to the Class Representative;  
9 and
- 10 i. That the Court award any and all other such relief as the Court may deem  
11 just and proper under the circumstances.

12 **DEMAND FOR JURY TRIAL**

13 286. Plaintiffs respectfully demand a trial by jury for all claims so triable pursuant  
14 to Federal Rule of Civil Procedure 38(b) and any other applicable law.

15  
16 Respectfully submitted, this 28<sup>th</sup> day of July, 2025.

17 By /s/Alexander Kolodin

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